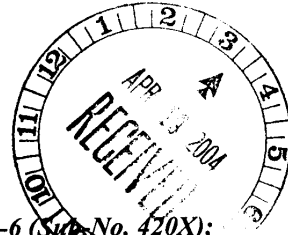


2 10640

April 16, 2004

Victoria Rutson  
Chief, SEA  
Surface Transportation Board  
1925 K Street, N.W.  
Washington, DC 20423-0001



**Re: Surface Transportation Board Docket No. AB-6 (Sub. No. 420X);  
The Burlington Northern and Santa Fe Railway Company;  
Abandonment between Antelope Valley, North Dakota and Zap,  
North Dakota**

*Attorneys at Law*

311 South Wacker Drive  
Suite 3000  
Chicago, Illinois  
60606-6677  
Tel 312.360.6000

Michael A. Smith  
Senior Counsel  
Direct 312.360.6724  
Fax 312.360.6598  
msmith@  
freebornpeters.com

*Chicago*

*Springfield*

Dear Ms. Rutson:

On or after May 5, 2004, we are filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon 3.36 miles of railroad line between M.P. 77.14 in Antelope Valley Station, North Dakota to M.P. 80.50 near Zap, North Dakota, which traverses through United States Postal ZIP Codes 58580 and 58523 in Mercer County, North Dakota. Attached are ten copies plus the original of the Environmental and Historic Report describing the proposed action and any expected environmental or historic effects.

Sincerely,

Michael A. Smith

Enclosures

ENTERED  
Office of Proceedings

APR 20 2004

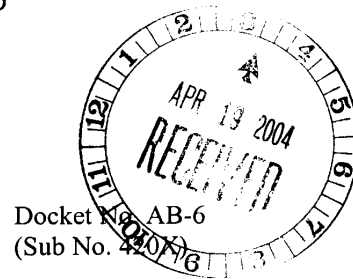
Part of  
Public Record

210640

BEFORE THE  
SURFACE TRANSPORTATION BOARD

In the Matter of The  
Burlington Northern and Santa Fe  
Railway Company Notice of Exemption  
to Abandon Its Line of Railroad  
Between M.P. 77.14 in Antelope Valley  
Station, North Dakota and M.P. 80.50  
near Zap, North Dakota

ENTERED  
Office of Proceedings  
APR 20 2004  
Part of  
Public Record



**ENVIRONMENTAL REPORT**

The following information is submitted to the Surface Transportation Board by The Burlington Northern and Santa Fe Railway Company (BNSF) in accordance with the Board's reporting requirements as set forth in 49 C.F.R. § 1105.7 for the purpose of assisting the Board's preparation of an environmental document regarding BNSF's Notice of Exemption for abandonment of its line between M.P. 77.14 near Antelope Valley Station, Mercer County, North Dakota and M.P. 80.50 near Zap, Mercer County, North Dakota, total distance of 3.36 miles.

**(1) Proposed action and Alternatives:** Describe the proposed action, including commodities transported, the planned disposition (if any) of any rail line and other structures that may be involved, and any possible changes in current operations or maintenance practices. Also describe any reasonable alternatives to the proposed action. Include a readable, detailed map and drawings clearly delineating the project.

BNSF seeks to abandon and discontinue service of the line. A map of the line is attached as Exhibit A.

**(2) Transportation system:** Describe the effect of the proposed action on regional or local transportation systems and patterns. Estimate the amount of traffic (passenger or freight) that will be diverted to other transportation systems or modes as a result of the proposed action.

The proposed abandonment will have no affect on existing transportation systems or patterns as the line is out of service.

**(3) Land Use:**

(i) Based on consultation with local and/or regional planning agencies and/or review of the official planning documents prepared by such agencies, state whether the proposed action is consistent with existing land use plans. Describe any inconsistencies.

BNSF believes that the proposed exemption will be consistent with existing land use plans. The Mercer County Board of Commissioners was notified by letter dated December 8, 2003. See Exhibit B. As of the date of this report, the Mercer County Board of Commissioners has not responded. BNSF will provide the Board copies of any response it may receive.

(ii) Based on consultation with the U.S. Soil Conservation Service, state the effect of the proposed action on any prime agriculture land.

BNSF does not believe that prime agriculture will be effected by the proposed abandonment. The Natural Resource Conservation Service was notified by letter dated December 8, 2003. See Exhibit C. As of the date of this report, The Natural Resource Conservation Service has not responded. BNSF will provide the Board copies of any response it may receive.

(iii) If any action affects land or water uses within a designated coastal zone, include the coastal zone information required by § 1105.9

N/A

(iv) If the proposed action is abandonment, state whether or not the right-of-way is suitable for alternative public use under 49 U.S.C. § 10906 and explain why.

The right-of-way may be suitable for an alternative public use.

However, the Mercer County Board of Commissioners was notified by letter dated December 8, 2003. See Exhibit B. As of the date of this report, the Mercer County Board of Commissioners has not responded. BNSF will provide the Board copies of any response it may receive.

**(4) Energy:**

(i) Describe the effect of the proposed action on transportation of energy.

To the best of BNSF's knowledge there are no undeveloped energy resources such as oil, natural gas or coal in the vicinity of this line.

(ii) Describe the effect of the proposed action on recyclable commodities.

This abandonment and discontinuance will not adversely affect movement or recovery of recyclable commodities as the line is out of service.

(iii) State whether the proposed action will result in an increase or decrease in overall energy efficiency and explain why.

This abandonment will not result in an increase or decrease in overall energy efficiency as the line is out of service.

(iv) If the proposed action will cause diversions from rail to motor carriage of more than:

(A) 1,000 rail carloads a year, or

(B) An average of 50 rail carloads per mile per year for any part of the affected line, quantify the resulting net change in the energy

consumption and show the data and methodology used to arrive at the figure given.

There will be no diversions of traffic because the line is out of service.

**(5) Air:**

(i) If the proposed action will result in either:

(A). An increase in rail traffic of at least 100% (measured in gross ton miles annually) or an increase of at least eight trains a day on any segment of the line effected by the proposed, or

No.

(B). An increase in rail yard activity of at least 100% (measured by carload activity), or

No.

(C). An average increase in truck traffic of more than 10% of the average daily traffic or 50 vehicles a day on any affected road segment, quantify the anticipated effect on air emissions.

The action will not involve an increase in truck traffic of more than 10% or 50 vehicles a day on any affected road segment as the line is out of service.

(ii) If the proposed action affects a Class I or nonattainment area under the Clean Air Act, and will result in either:

(A) An increase in rail traffic of at least 50% (measured in gross ton miles annually) or an increase of at least three train a day on any segment of rail line, or

(B) An increase in rail yard activity of at least 20% (measured by carload activity), or

(C) An average increase in truck traffic or more than 10-% of the average daily traffic of 50 vehicles a day on a given road segment, then state whether any expected increased emissions are within the parameters established by State implementation Plan. However, for a rail construction

under 49 U.S.C. § 10901 (or 49 U.S.C. § 10505) or in a case involving the reinstitution of service over a previously abandoned line, only the three train a day threshold in this item shall apply.

The proposed abandonment will not result in an increase of rail or truck traffic because the line is out of service.

(iii) If the transportation of ozone depleting materials (such as nitrogen oxide and from) is contemplated, identify: the materials and quantity; the frequency of service; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and spills; contingency plans to deal with accidental spills; and the likelihood of an accidental release of ozone depleting materials in the event of a collision or derailment.

The proposed abandonment will not result in an increase of rail or truck traffic because the line is out of service.

**(6) Noise:** If any of the thresholds identified in item (5)(c) of this section are surpassed, state whether the proposed action will cause:

(i) An incremental increase in noise levels of three decibels Ldn or more,

N/A

(ii) An increase to a noise level of 76 decibels Ldn or greater. If so, identify sensitive receptors (e.g. schools, libraries, hospitals, residences, retirement communities and nursing homes) in the project area and quantify the noise increase for those receptors if the thresholds are surpassed.

N/A

**(7) Safety:**

(i) Describe any effects of the proposed action on public health and safety (including vehicle delay time at railroad crossings).

This abandonment should have no adverse effect on health or public safety. There are three public crossings and two private crossings. During salvage operations on the line, if any may be required, precautions

will be taken to ensure public safety, and contractors will be required to satisfy all applicable health and safety laws and regulations.

(ii) If hazardous materials are expected to be transported, identify: the materials and quantity; the frequency of service; whether chemicals are being transported that, if mixed, could react to form more hazardous compounds; safety practices (including any speed restrictions); the applicant's safety record (to the extent available) on derailments, accidents and hazardous spills; the contingency plans to deal with accidental spills, and the likelihood of and accidental release of hazardous materials.

Abandonment will not result in transportation of hazardous materials.

(iii) If there are any known hazardous waste site or sites where there have been known hazardous materials spills on the right-of-way, identify the location of those sites and the types of hazardous materials involved.

BNSF is not aware of any evidence of known hazardous waste site or sites where there have been known hazardous materials spills on the right of way.

**(8) Biological resources:**

(i) Based on consultation with the U.S. Fish and Wildlife Service, state whether the proposed action is likely to adversely affect endangered or threatened species or areas designated as a critical habitat, and if so, describe the effects.

The project as described will have no significant impact on fish and wildlife resources. No endangered or threatened species are known to occupy the project area. See Exhibit D, response from the U.S. Fish and Wildlife Service.

(ii) State whether wildlife sanctuaries or refuges, National or State parks or forests will be affected, and describe any effects.

The project as defined does not affect state park lands that the North Dakota Department of Parks and Recreation Department manages or Land and Water Conservation Fund recreation projects the Department

coordinates. See Exhibit E, letter from the North Dakota Department of Parks and Recreation. The Bureau of Land Management has no wildlife sanctuaries or refuges, National or State parks or forests in the proposed impact areas. See Exhibit F, letter from the Bureau of Land Management.

**(9) Water:**

(i) Based on consultation with State water quality officials, state whether the proposed action is consistent with applicable Federal, State or local water quality standards. Describe any inconsistencies.

BNSF believes that the proposed exemption will be consistent with applicable Federal, State or local water quality standards. The North Dakota Department of Health recommends that Best Management Practices be followed during the course of the project to prevent dirt, construction debris and waste material from entering a storm drainage system or water body. See Exhibit G, letter from the North Dakota Department of Health.

(ii) Based on consultation with the U.S. Army Corps of Engineers, state whether permits under Section 404 of the Clean Water Act (33 U.S.C. § 1344) are required for the proposed action and whether any designated wetlands or 100-year floodplains will be affected. Describe the effects.

A Section 404 permit is not required. See Exhibit H, letter from the Army Corps of Engineers. The proposed abandonment should not adversely affect any 100-year floodplains. See Exhibit I, letter from the Mercer County Office of Emergency Services. The roadbed along with the drainage culverts and structures will be left in place and if the wood timber bridge within the City of Zap is removed, all components will be removed.



(iii) State whether permits under Section 402 of the Clean Water Act (33 U.S.C. § 1344) are required for the proposed action. (Applicants should contact the U.S. Environmental Protection Agency or the state environmental protection or equivalent agency if they are unsure whether such permits are required.

Permits under Section 402 of the Clean Water Act are not required for the proposed abandonment. Based on the described activity, an NDPDES permit would not be required since there will be little or not grading disturbance. See Exhibit G, letter from the North Dakota Department of Health.

**(10) Proposed Mitigation:** Describe any actions that are proposed to mitigate adverse environmental impacts, indicating why the proposed mitigation is appropriate.

Any salvage operations that may result will be in accordance with BNSF's general practice of requiring its private contractors to comply with all federal, state and local laws and regulations pertaining to the environment, including, but not limited to noise, air quality, water quality, and items of archaeological significance. The project itself should mitigate the environmental effects of reinstating active rail operations.

Respectfully Submitted,



Michael Smith  
Freeborn & Peters  
311 S. Wacker Dr. Suite 3000  
Chicago, Illinois 60606-6677  
Phone: (312) 360-6724  
Fax: (312) 360-6598

Date: April 16, 2004

BEFORE THE  
SURFACE TRANSPORTATION BOARD

In the Matter of The  
Burlington Northern and Santa Fe  
Railway Company Notice of Exemption  
to Abandon Its Line of Railroad  
Between M.P. 77.14 in Antelope Valley  
Station, North Dakota and M.P. 80.50  
near Zap, North Dakota

Docket No. AB-6  
(Sub No. 420X)

**HISTORICAL REPORT**

The following is submitted to the Surface Transportation Board by The Burlington Northern and Santa Fe Railway Company (BNSF) in accordance with the Board's reporting requirements set forth in 49 C.F.R. § 1105.8 for the purpose of assisting the Board's environmental and historical assessment regarding BNSF's Notice of Exemption to abandon its line of railroad between M.P. 77.14 in Antelope Valley Station, North Dakota to M.P. 80.50 near Zap, North Dakota, a total distance of 3.36 miles.

(1) A U.S.G.S. topographic map (or alternate map drawn to scale and sufficiently detailed to show buildings and other structures in the vicinity of the proposed action) showing the location of the proposed action, and the locations and approximate dimensions of the railroad structures that are 50 years old or older and are part of the proposed action;

One copy of a U.S.G.S. Topographical map has been provided to the State Historical Society of North Dakota and one copy is being provided to the Surface Transportation Board's Section of the Environmental Analysis upon filing of this Report.

(2) A written description of the right-of-way (including approximate widths, to the extent known) and the topography and urban and/or rural characteristics of the surrounding area:

The Antelope Valley Station to Zap, North Dakota line connects the railroad stations of Antelope Valley Station and Republic and the town of Zap. Antelope Valley

Station and Republic are railroad stations along the line. The town of Zap has a population of 231 as listed in the North Dakota League of Cities City Directory for 2002 - 2004. Wheat is the main agricultural crop grown along the line, however, there are coal deposits and mines in the general area of the line.

The right of way is 100 feet wide with the exception of station grounds which can vary in width.

(3) Good quality photographs (actual photographic prints, not photocopies) or railroad structures on the property that are 50 years old or older and of the immediately surrounding area;

There are two bridges that are 50 years or older in the immediate area of the abandonment. Photographs of the two bridges are attached to this report. See Exhibit J.

(4) The date(s) of construction of the structures, and the date(s) and extent of any major alterations, to the extent such information is known;

The dates of construction of the two bridges are included with the photographs. See Exhibit J.

(5) A brief narrative history of carrier operations in the area, and an explanation of what, if any, changes are contemplated as a result of the proposed action:

The right of way was acquired by the Western Dakota Railway Company, a predecessor of the Northern Pacific Railway Company (NP). In 1970 the NP merged into the Burlington Northern Railroad (BN). In 1995, BN merged with The Atchison Topeka and Santa Fe Railway to become The Burlington Northern and Santa Fe Railway Company (BNSF).

(6) A brief summary of documents in the carrier's possession, such as engineering drawings, that might be useful in documenting a structure that is to be historic;

Documents in BNSF's possession concerning this abandonment may include alignment maps showing the right-of-way and/or station maps. Such documents are too large for practical reproduction in this report, but can be furnished upon request, if they are available.

(7) An opinion (based on readily available information in the railroad's possession) as to whether the site and/or structures meet the criteria for listing on the National Register of Historic Places (36 C.F.R. § 60.4), and whether there is a likelihood of archaeological resources or any other previously unknown historic properties in the project area, and the basis for these opinions (including any consultations with the State Historic Preservation Office, local historical societies or universities);

The State Historical Society of North Dakota recommends that a Class I Cultural Inventory of the Area of Potential Effect (APE) be prepared and submitted to them for consultations. The State Historical Society of North Dakota also recommends that the two bridges be formally recorded on NDCRS site forms. See Exhibit K, letter from the State Historical Society of North Dakota. . BNSF has commissioned an inventory by a qualified historian. Upon completion of the survey, it will be provided to the North Dakota Historical Society.

(8) A description (based on readily available information in the railroad's possession) of any known prior subsurface ground disturbance or fill, environmental conditions (naturally occurring or manmade) that might affect the archaeological recovery of resources (such as swampy conditions or the presence of toxic wastes), and the surrounding terrain.

BNSF is not aware of any known prior subsurface ground disturbance or fill or any other environmental conditions (naturally occurring or man-made) that might affect the recovery of archaeological resources.

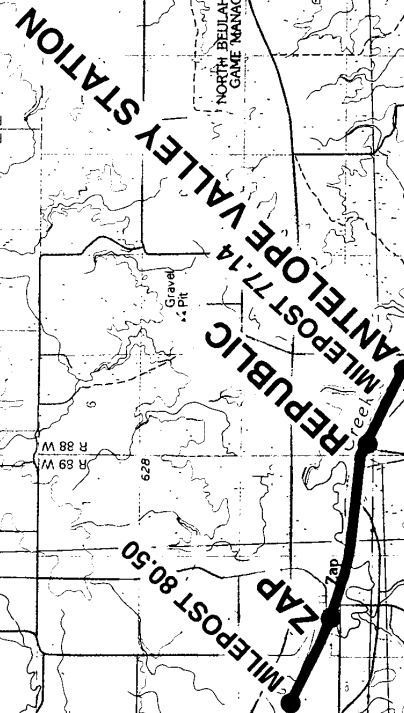
Respectfully submitted,

A handwritten signature in black ink, appearing to read 'Michael Smith', with a horizontal line underneath it.

Michael Smith  
Freeborn & Peters  
311 S. Wacker Dr. Suite 3000  
Chicago, Illinois 60606-6677  
Phone: (312) 360-6724  
Fax: (312) 360-6598

Date: April 16, 2004

A



**B**



Freeborn & Peters LLP

December 8, 2003

Gary Murray  
County Commission Chair  
Mercer County Board of Commissioners  
P.O. Box 39  
Mercer County Courthouse  
Stanton, ND 58571-0039

**Re:   *The Burlington Northern and Santa Fe Railway Company Abandonment  
of Antelope Valley, North Dakota and Zap, North Dakota***

*Attorneys at Law*

311 South Wacker Drive  
Suite 3000  
Chicago, Illinois  
60606-6677  
Tel 312.360.6000

Brian Nettles  
Paralegal  
Direct 312.360.6336  
Fax 312.360.6596  
bnettl@  
freebornpeters.com

*Chicago*

*Springfield*

Dear Sir or Madam:

BNSF plans on filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon 3.36 miles of railroad line between M.P. 77.14 at Antelope Valley Station, North Dakota to M.P. 80.50 in Zap, North Dakota.

As part of the environmental report BNSF needs to know whether or not the proposed action is consistent with local land use plans and if there are any alternate public uses for the corridor such as a recreational trail.

The proposed abandonment may require the removal of the track materials such as the rails and ties but the roadbed will be left intact.

For your reference I have enclosed a map of the above referenced railroad line. If you have any questions, or if you would like to discuss this matter further, please do not hesitate to contact me at (312) 360-6336.

Thank you in advance for your cooperation.

Sincerely,



Brian Nettles

/bn  
Enclosure

C

Freeborn & Peters LLP

December 8, 2003

Natural Resources Conservation Service  
Beulah Service Center  
1400 Highway 49 N, Suite 101  
Beulah, ND 58523-6065

**Re:    *The Burlington Northern and Santa Fe Railway Company Abandonment  
of Antelope Valley, North Dakota and Zap, North Dakota***

Dear Sir or Madam:

*Attorneys at Law*

311 South Wacker Drive  
Suite 3000  
Chicago, Illinois  
60606-6677  
Tel 312.360.6000

Brian Nettles  
Paralegal  
Direct 312.360.6336  
Fax 312.360.6596  
bnettl@  
freebornpeters.com

BNSF plans on filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon 3.36 miles of railroad line between M.P. 77.14 at Antelope Valley Station, North Dakota to M.P. 80.50 in Zap, North Dakota.

As part of the environmental report BNSF needs to know whether or not the proposed abandonment will have any effect on prime agricultural lands.

The proposed abandonment may require the removal of the track materials such as the rails and ties but the roadbed will be left intact.

Please provide this information by January 8, 2004. Thank you for your cooperation.

*Chicago*

*Springfield*

For your reference I have enclosed a map of the above referenced railroad line. If you have any questions, or if you would like to discuss this matter further, please do not hesitate to contact me at (312) 360-6336.

Thank you in advance for your cooperation.

Sincerely,



Brian Nettles

/bn  
Enclosure

D

Freeborn & Peters LLP

December 8, 2003

U. S. Fish and Wildlife Service  
North Dakota Field Office  
3425 Miriam Avenue  
Bismarck, North Dakota 58501-7926

**Re: The Burlington Northern and Santa Fe Railway Company Abandonment  
of Antelope Valley, North Dakota and Zap, North Dakota**

*Attorneys at Law*

311 South Wacker Drive  
Suite 3000  
Chicago, Illinois  
60606-6677  
Tel 312.360.6000

Brian Nettles  
Paralegal  
Direct 312.360.6336  
Fax 312.360.6596  
bnettl@freebornpeters.com

Dear Sir or Madam:

BNSF plans on filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon 3.36 miles of railroad line between M.P. 77.14 at Antelope Valley Station, North Dakota to M.P. 80.50 in Zap, North Dakota.

As part of the environmental report BNSF needs to know whether or not there are any endangered or threatened species, wildlife sanctuaries or refuges or areas designated as critical habitat adjacent or near the line and if so; what effects the proposed action may have.

The proposed abandonment may require the removal of the track materials such as the rails and ties but the roadbed will be left intact.

For your reference I have enclosed a map of the above referenced railroad line. Please provide this information by January 8, 2004. If you have any questions, or if you would like to discuss this matter further, please do not hesitate to contact me at (312) 360-6336.

Thank you in advance for your cooperation.

Sincerely,



Brian Nettles

/bn  
Enclosure

U.S. FISH AND WILDLIFE SERVICE

ECOLOGICAL SERVICES  
ND FIELD OFFICE

Project as described will have no significant impact on fish and wildlife resources. No endangered or threatened species are known to occupy the project area. IF PROJECT DESIGN CHANGES ARE MADE, PLEASE SUBMIT PLANS FOR REVIEW.

12/15/03  
Date  
Jeffrey K. Towner  
Field Supervisor

E



1600 East Century Avenue, Suite 3  
Bismarck, ND 58503-0649

Phone 701-328-5357  
Fax 701-328-5363  
E-mail [parkrec@state.nd.us](mailto:parkrec@state.nd.us)  
[www.NDparks.com](http://www.NDparks.com)

December 18, 2003

Brian Nettles  
Freeborn & Peters  
311 South Wacker Drive, Suite 3000  
Chicago, IL 60606-6677

Re: The Burlington Northern and Santa Fe Railway Company Abandonment of Antelope Valley, North Dakota to Zap,  
North Dakota

Dear Mr. Nettles:

The North Dakota Parks and Recreation Department (NDPRD) has reviewed the above referenced application to abandon 3.36 miles of railroad line between M.P. 77.14 at Antelope Valley Station, North Dakota to M.P. 80.50 in Zap, North Dakota, Mercer County.

Our agency scope of authority and expertise covers recreation and biological resources (in particular rare species and ecological communities). The project as defined does not affect state park lands that we manage or Land and Water Conservation Fund recreation projects that we coordinate.

The North Dakota Natural Heritage Inventory has limited rare species information from the project area. Due to the lack of available survey data we cannot give an accurate assessment as to potential impacts to rare species and associated habitats.

The NDPRD recommends that any impacted areas be revegetated with species native to the project area.

Thank you for the opportunity to comment on this project. Please contact Kathy Duttenehner (701-328-5370) of our staff if additional information is needed.

Sincerely,

Jesse Hanson, Coordinator  
Planning and Natural Resources Division

R.USNDNHI\*1226

.....  
*Play in our backyard!*

F





## United States Department of the Interior

### BUREAU OF LAND MANAGEMENT

North Dakota Field Office

2933 3<sup>rd</sup> Ave West

Dickinson, ND 58601

701-227-7700

<http://www.mt.blm.gov/ndfo/>

In Reply To:

2700  
LRG

January 5, 2004

Brian Nettles  
Freeborn & Peters LLP  
311 South Wacker Drive, Suite 3000  
Chicago, IL 60606-6677

RE: The Burlington Northern and Santa Fe Railway Company Abandonment of Antelope Valley, North Dakota and Zap, North Dakota comment due January 8, 2004 AND;

The Burlington Northern and Santa Fe Railway Company Abandonment of Hannah Junction, North Dakota to McCanna, North Dakota comment due January 9, 2004.

Dear Mr. Nettles:

The Bureau of Land Management (BLM) has no wildlife sanctuaries or refuges, National or State parks or forests in the proposed impact areas.

However, please keep the BLM informed as to the continued process. These railroad abandonments depending under which Act they were granted, impact the BLM. We appreciate the opportunity to comment.

Sincerely,

  
Linda Gisvold  
Realty

G



**NORTH DAKOTA DEPARTMENT OF HEALTH**  
**Environmental Health Section**

**Location:**

1200 Missouri Avenue  
Bismarck, ND 58504-5264

**Fax #:**

701-328-5200

**Mailing Address:**

P.O. Box 5520  
Bismarck, ND 58506-5520

March 3, 2004

Brian Nettles  
Freeborn & Peters LLP  
311 South Wacker Drive  
Chicago IL 60606-6677

Re: BNSF Railway Company – Railroad Line Abandonment  
Near Zap, North Dakota

Dear Mr. Nettles:

We have reviewed your letter regarding BNSF's plans to abandon a section of railroad line near Zap, North Dakota. As you provided, the proposal may involve the removal of rails and ties but would leave the roadbed intact. Based on the described activity an NDPDES permit would not be required since there will be little or no grading disturbance. Projects disturbing more than one acre are required to have a NDPDES permit to discharge storm water runoff until the site is stabilized by the reestablishment of vegetation or other permanent cover.

Even though a permit may not be required, we do recommend that Best Management Practices be followed during the course of the project to prevent dirt, construction debris and waste material from entering a storm drainage system or water body.

Should you have any questions, please contact me at 701-328-5244.

Sincerely,

Randy Kowalski  
Environmental Scientist  
Division of Water Quality

Environmental Health  
Section Chief's Office  
701-328-5150

Air  
Quality  
701-328-5188

Municipal  
Facilities  
701-328-5211

Waste  
Management  
701-328-5166

Water  
Quality  
701-328-5210

**Website:** [www.health.state.nd.us/ndhd/environ](http://www.health.state.nd.us/ndhd/environ)  
*Printed on recycled paper.*

H



REPLY TO  
ATTENTION OF

**DEPARTMENT OF THE ARMY**  
**CORPS OF ENGINEERS, OMAHA DISTRICT**  
**NORTH DAKOTA REGULATORY OFFICE**  
**1513 S. 12<sup>TH</sup> STREET**  
**BISMARCK, NORTH DAKOTA 58504-8640**

December 15, 2003

North Dakota Regulatory Office

[200360617]

Mr. Brian Nettles  
Freeborn & Peters LLP  
311 South Wacker Drive  
Suite 3000  
Chicago, Illinois 60606-6677

Dear Mr. Nettles:

This is in reference to your request dated December 8, 2003 on behalf of Burlington Northern Santa Fe Railway Company for a Department of the Army (DA) permit under Section 10 of the Rivers and Harbors Act and Section 404 of the Clean Water Act. You propose to abandon 3.36 miles of railroad line between M.P. 77.14 at Antelope Valley Station, North Dakota to M.P. 80.50 in Zap, North Dakota, Mercer County, North Dakota.

Based on the information provided to this office, it has been determined that your proposed project, as presently designed, would be accomplished above Section 10/404 jurisdictional boundaries and therefore, a Section 10/404 permit would not be required. However, DA authorization may be required should changes be made in your project.

The fact that a Section 10/404 permit is not required does not relieve you of the obligation to obtain required approvals from other agencies that may have regulatory jurisdiction over your project.

If you have any questions concerning this determination, please contact this office by letter or telephone me at 255-0015, and reference Identification Number 200360617.

Sincerely,

*Daniel E. Cummings*

*for* James L. Winters  
Regulatory Program Manager  
North Dakota

I

**Mercer County**  
**Office of Emergency Services**

Mercer County Courthouse  
P.O. Box 39  
Stanton, ND 58571

Phone 701-745-3695  
Fax 701-745-3205  
[rsorenso@state.nd.us](mailto:rsorenso@state.nd.us)

December 22, 2003

Mr. Brian Nettles, Paralegal  
Freeborn & Peters  
311 South Wacker Drive – Suite 3000  
Chicago, Illinois 60606-6677

RE: The Burlington Northern and Santa Fe Railway Company abandonment of Antelope Valley, North Dakota and Zap, North Dakota.

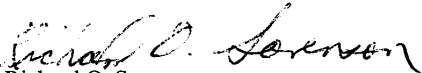
Dear Mr. Nettles:

The abandonment of 3.36 miles of railroad line as shown on the attached location map should not adversely affect any 100-year floodplains provided that:

- The roadbed along with drainage culverts and structures are left in place.
- That if the wood timber bridge spanning Spring Creek within the City of Zap is removed, that all components be removed to ground level above the water line and to the stream bed below the water line. No bridge components should be left in place that may catch ice, debris, or any manner restricts the natural flow of the stream.

If further information is needed, please feel free to contact me.

Sincerely,

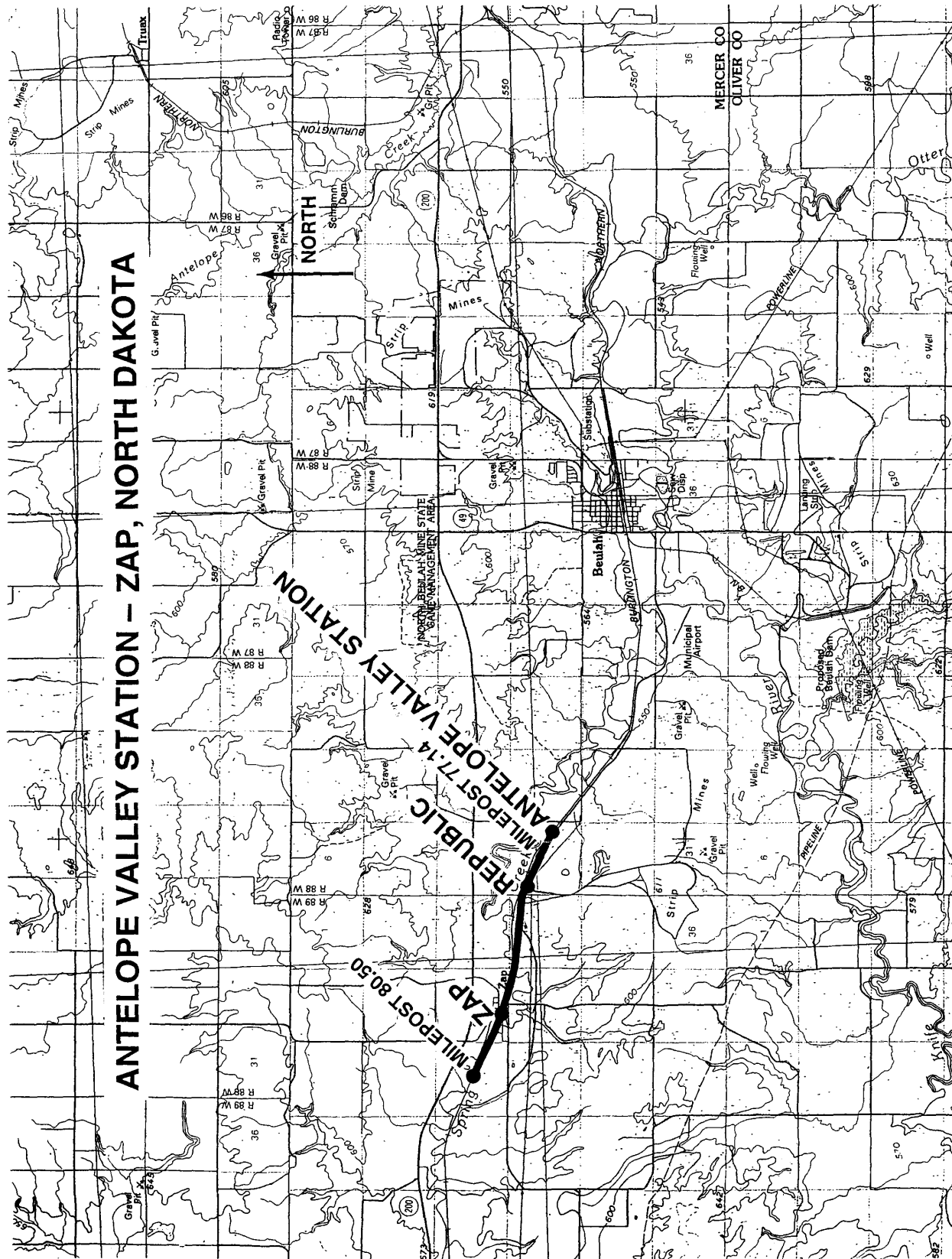


Richard O. Sorenson  
Mercer County Emergency Manager/  
Mercer County Floodplain Manager

Enclosure: As noted above.

Copy to: Mr. Gary Murray, County Commission Chairman  
Mr. Wayne Entze, County Commissioner  
Mr. Lyle Latimer, County Commissioner  
Mrs. Sandra Bohrer, County Auditor

# ANTELOPE VALLEY STATION - ZAP, NORTH DAKOTA





Freeborn & Peters LLP

December 8, 2003

Mercer County Emergency Manager  
P.O. Box 39  
Mercer County Courthouse  
Stanton, ND 58571-0039

**Re:   *The Burlington Northern and Santa Fe Railway Company Abandonment  
of Antelope Valley, North Dakota and Zap, North Dakota***

*Attorneys at Law*

311 South Wacker Drive  
Suite 3000  
Chicago, Illinois  
60606-6677  
Tel 312.360.6000

Brian Nettles  
Paralegal  
Direct 312.360.6336  
Fax 312.360.6596  
bnettl@  
freebornpeters.com

Dear Sir or Madam:

BNSF plans on filing with the Surface Transportation Board ("STB") a Notice of Exemption seeking authority to abandon 3.36 miles of railroad line between M.P. 77.14 at Antelope Valley Station, North Dakota to M.P. 80.50 in Zap, North Dakota.

As part of the environmental report BNSF needs to know if the proposed abandonment will affect any 100-year floodplains. If so, please furnish 8 & ½ by 11 black and white maps in the area of each designated floodplain if they are available.

The proposed abandonment may require the removal of the track materials such as the rails and ties but the roadbed will be left intact.

For your reference I have enclosed a map of the above referenced railroad line. Please provide this information by January 8, 2004. If you have any questions, or if you would like to discuss this matter further, please do not hesitate to contact me at (312) 360-6336.

Thank you in advance for your cooperation.

Sincerely,



Brian Nettles

/bn  
Enclosure

*Chicago*

*Springfield*

**Abandonment Documentation (M.P. 77.14 to M.P. 80.50)**

List of Bridges

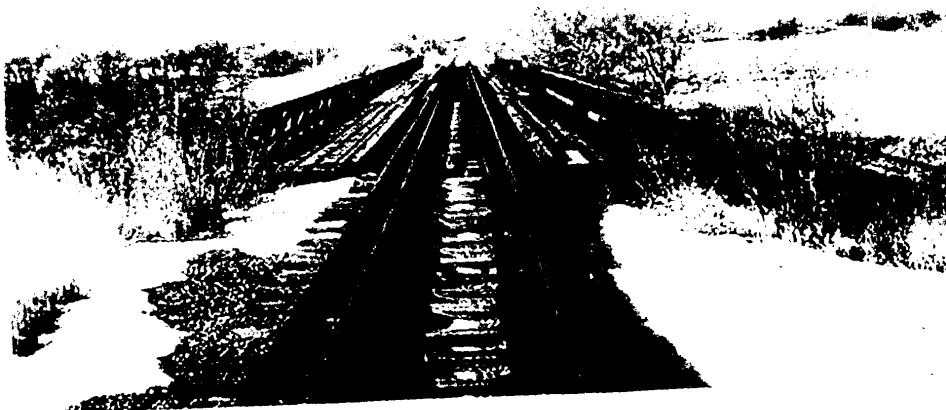
Bridge:	79.33	Built: 1930	Length: 230'	Height: 31'	Description: Open Pile Trestle	Obstacle: Spring Creek
Bridge:	80.08	Built: 1947	Length: 231'	Height: 28'	Description: Open Pile Trestle	Obstacle: Spring Creek

J

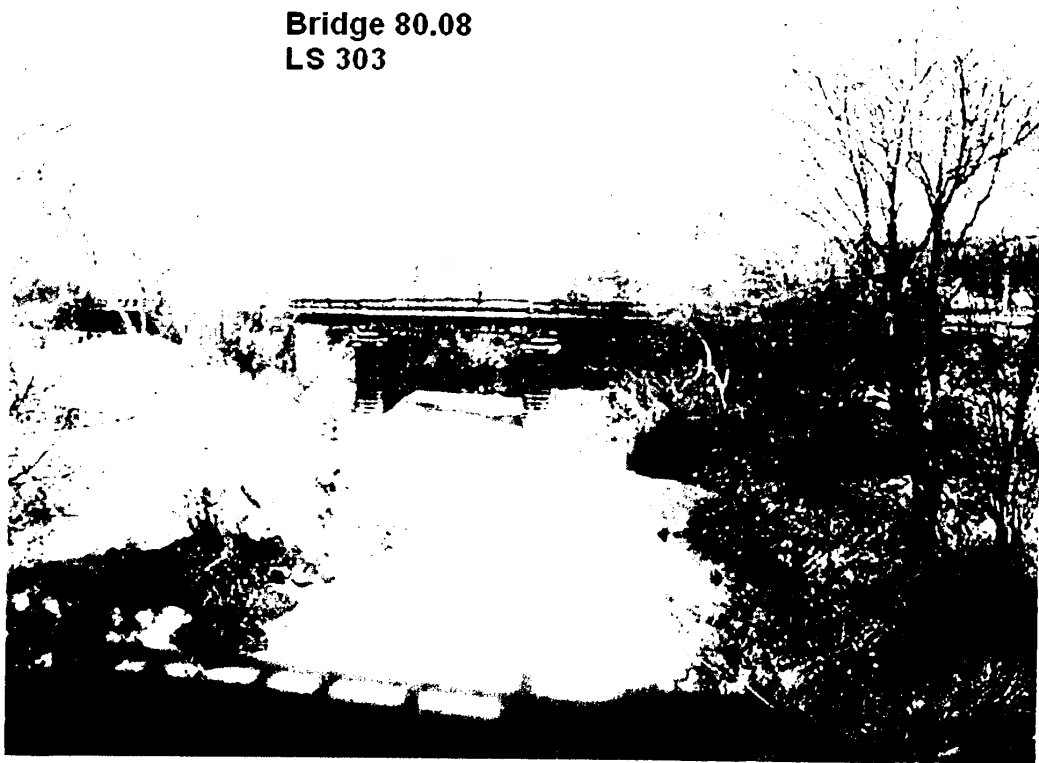
Bridge 79.33  
LS 303



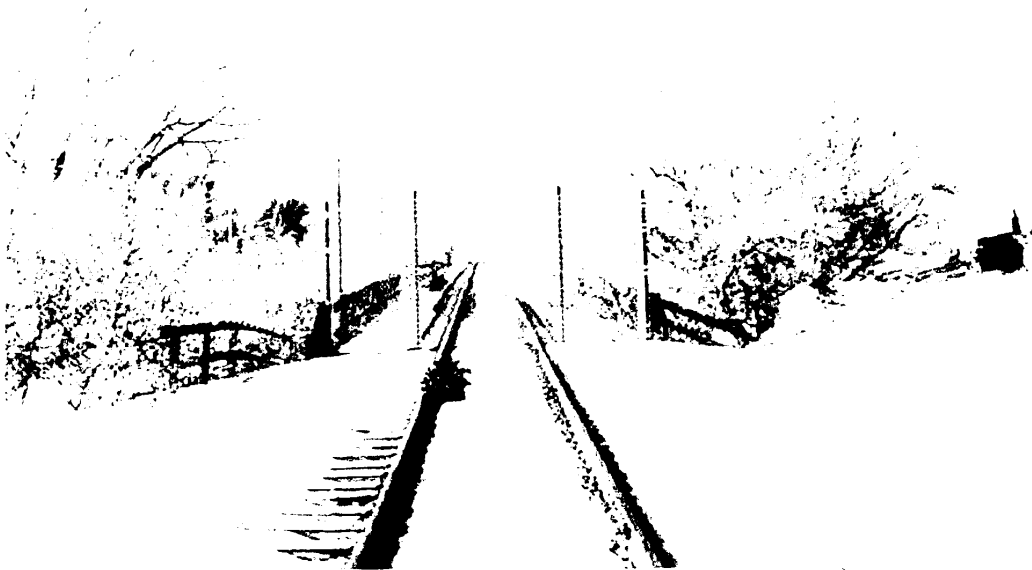
Bridge 79.33  
LS 303



**Bridge 80.08**  
**LS 303**



**Bridge 80.08**  
**LS 303**



K



**STATE  
HISTORICAL  
SOCIETY  
OF NORTH DAKOTA**

John Hoeven  
*Governor of North Dakota*

January 22, 2004

**North Dakota  
State Historical Board**

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*Director*

*Accredited by the  
American Association  
of Museums*

Brian Nettles  
Freeborn & Peters LLP  
311 South Wacker Drive, Suite 3000  
Chicago, IL 60606-6677

**NDSHPO REF.: 04-0221**, Proposed BN&SF Railway Co. Abandonment,  
Antelope Valley Station to Zap, Mercer County, ND.

Dear Mr. Nettles:

We have reviewed Project: 04-0221, proposed abandonment of the Burlington Northern and Santa Fe Railway Company line between the Antelope Valley Station and Zap, North Dakota.

We recommend that a Class I Cultural Resources Inventory (i.e., files search) of the Area of Potential Effect (APE) be prepared and submitted to our office for consultation. The results of the files search should include a short report detailing all cultural resources (including potential or actual historic properties) in the legal sections of the APE and 7.5' topographic maps with the cultural resource locations and previously inventoried areas plotted and marked on it.

We also recommend that the two bridges be formally recorded on NDCRS site forms. The recording should be completed by a state permitted cultural resource firm/architectural historian, and include preliminary evaluations. We have previously provided your office with a list of state permitted firms.

Thank you for the opportunity to review this project. Please include the ND SHPO Reference number listed above in any further correspondence for this specific project. If you have any questions please contact Duane Klinner at (701) 328-3576.

Sincerely,

Merlan E. Paaverud, Jr.  
State Historic Preservation Officer  
(North Dakota)